

### REMARKS

Claims 1-8 are currently pending in this application.

Claims 1-3 and 6-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Klinker et al. (US 2007/0140128). Claim 4 is rejected under 35 U.S.C. 103(a) as being obvious over Klinker et al. in view of Hernandez-Valencia (US 6,266,327). Claim 5 is rejected under 35 U.S.C. 103(a) as being obvious over by Klinker et al. in view of Aoki (US 6,757,255). Claim 8 is rejected under 35 U.S.C. 103(a) as being obvious over by Klinker et al. in view of Foster (US 2002/0159389).

Klinker et al. describes a system and method to provide routing control of information that includes a flow control system 90 (Paragraph [0061]), a passive calibrator 203 (paragraph [0083]) and a parser 651 (Paragraph [0105]), used to control the routing of data efficiently for network optimization. In contrast, the claimed invention provides an automatic detecting apparatus for protocol nonconformity. A protocol nonconformity can be detected according to the invention without necessitating extensive technical knowledge or a complex operation.

In particular, claims 1 and 6 recite that the state information is Transmission Control Protocol (TCP) connection information, and that the nonconformity information is at least one of a conditional formula regarding the

TCP connection information, a conditional formula regarding the header information of the packet, and a combination thereof. These elements are described in the specification, for example on page 12, lines 9-24. Because Klinker et al. does not describe or suggest these claimed elements, applicants respectfully submit that claims 1 and 6 are not anticipated, and are allowable.

Regarding claims 2 and 7, Klinker et al. does not describe or suggest means for specifying on the basis of a predetermined algorithm the transmitting and receiving control process to be made for the packet acquired at either of said transmitting and receiving terminals. This arrangement is explained in the specification, for example, on page 14, lines 4-8. Claims 2 and 7 are thus respectfully submitted to be allowable.

Regarding claim 5, it is asserted in the Office Action that the transmitted packet is analogous to a SYN packet transmitting time, as described in Aoki. However, the cited references do not describe or suggest that the TCP connection information includes an evaluation value having at least one of a total number of transmitted packets, a total number of retransmitted packets, a total number of Selective ACKnowledgement (SACK) blocks, a minimum packet size, a throughput of a maximum retransmitted interval, and a round trip time up to receiving a response packet to the transmitted packet, as is explained in the specification, for example on page 10, lines 11-27. Accordingly, claim 5 is respectfully submitted to be allowable.

Claims 2-5 and 7-8 depend from allowable claims, and at least for that reason, and in view of the arguments presented above, are respectfully submitted to be allowable.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #010755.52992US).

Respectfully submitted,

August 5, 2008



Robert L. Grabarek, Jr.  
Registration No. 40,625

Paolo M. Trevisan  
Registration No. 45,164

CROWELL & MORING LLP  
Intellectual Property Group  
P.O. Box 14300  
Washington, DC 20044-4300  
Telephone No.: (202) 624-2500  
Facsimile No.: (202) 628-8844  
RLG:PMT